



DEFENSE LOGISTICS AGENCY
DEFENSE LOGISTICS SUPPORT COMMAND
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OCT 5 1999

IN REPLY
REFER TO

DLSC-P
PROCLTR 99- 12

MEMORANDUM FOR PROCLTR DISTRIBUTION LIST

SUBJECT: DLAD 33.103(c), 33.103(d)(4), and DLAD 52.233-9000, Alternative Agency
Protest Procedures Under Executive Order No. 12979

This PROCLTR revises existing DLAD 33.103 coverage on alternative agency protest procedures under Executive Order No. 12979.

The PROCLTR makes two changes. First, it specifies that the decision-maker for alternative agency protests shall be the Chief of the Contracting Office (CCO) (or the Deputy Commander if the CCO has had previous involvement with the protested procurement). Current coverage allows for varied Activity implementation; this change establishes uniformity throughout the Agency. This action establishes a decision level that ensures timely and independent review of protest submissions. Second, the revised coverage specifically requires that procedures established by field activities allow for input from both the protester and the contracting officer, ensuring the decisionmaker reaches a separate, independent decision. Independent review is critical to the success of this process and to ensure compliance with the Executive Order.

This PROCLTR is effective immediately and expires upon incorporation into the DLAD. Should you have any questions, please contact Mr. Frank Pane, DLSC-PPP, (703) 767-1461, DSN 427-1461, or email at francis_pane@hq.dla.mil.

WILLIAM J. KENNY
Executive Director
Procurement Management

Attachment



SUBPART 33.1 - PROTESTS

33.103 Protests to the agency

(c) All DLA field activities shall provide a protest procedure as an alternative to filing a protest with the contracting officer. The decision-maker for such an alternative "agency level" protest shall be ***the Chief of the Contracting Office (CCO). In those instances where the CCO has had previous personal involvement with the procurement, the decision-maker shall be the Deputy Commander.*** Legal review is required on all agency level protest decisions.

(d)(4) DLA field activities have flexibility in designing specific procedures for alternative "agency level" protests. However, procedures used shall ensure the decision-maker reviews input from both the protester and the contracting officer in order to reach a separate, independent decision.

(91) Each activity shall collect information concerning protests filed each fiscal year under the alternative protest procedure. This information shall include the number of protests filed and their disposition, whether or not there was a stay of procurement/award, and the number of any subsequent protests to the General Accounting Office.

52.233-9000 Agency protests.

As prescribed in DLAD 33.106 (c) a provision substantially as follows shall be inserted in all solicitations:



AGENCY PROTESTS (SEP 1996) - DLAD

Companies protesting this procurement may file a protest 1) with the contracting officer, 2) with the General Accounting Office, or 3) pursuant to Executive Order No. 12979, with the Agency for a decision ***by the Activity's Chief of the Contracting Office.*** Protests filed with the agency should clearly state that they are an "Agency Level Protest under Executive Order No. 12979." (Note: ***DLA procedures for Agency Level Protests filed under Executive Order No. 12979*** allow for a higher level decision on the initial protest than would occur with a protest to the contracting officer; this process is not an appellate review of a contracting officer's decision on a protest previously filed with the contracting officer). Absent a clear indication of the intent to file an agency level protest, protests will be presumed to be protests to the contracting officer.

(End of provision)